

AMENDED IN ASSEMBLY APRIL 20, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1579

Introduced by Assembly Member Aghazarian

February 22, 2005

An act to amend ~~Section~~ *Sections 1266 and 1417.2* of the Health and Safety Code, relating to long-term health care facilities, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1579, as amended, Aghazarian. Long-term health care facilities: funds.

Existing law requires a health facility to pay an annual fee when applying for a new or renewal license. Existing law requires the State Department of Health Services to make available specific information to a person, upon request, regarding the calculations used to determine the annual fee.

This bill would require the department to also make available to a requesting party information about the expenditure of funds for the prior fiscal year from the Health Facilities Citation Penalties Account.

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Existing law, the Long-Term Care, Health, Safety, and Security Act of 1973 is intended to establish (1) a citation system for the imposition of prompt and effective civil sanctions against long-term health care facilities in violation of the laws and regulations of this state, and the federal laws and regulations as applicable to nursing facilities; (2) an inspection and reporting system to ensure that long-term health care facilities are in compliance with state statutes and regulations pertaining to patient care; and (3) a provisional licensing mechanism

to ensure that full-term licenses are issued only to those long-term health care facilities that meet state standards relating to patient care. A willful or repeated violation of the act is a misdemeanor punishable by a fine or imprisonment or both.

The act requires moneys collected as a result of civil penalties imposed under the act to be deposited into the Health Facilities Citation Penalties Account *of the Special Deposit Fund* and requires those moneys to be used, upon appropriation by the Legislature, for the protection of health or property of residents of long-term health care facilities. The act prohibits the balance in the account from exceeding \$10,000,000.

This bill would provide that all moneys in the account are continuously appropriated, without regard to fiscal years or plan years, to carry out the purposes of the act.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1266 of the Health and Safety Code is
2 amended to read:

3 1266. (a) Each new and renewal application for a license for
4 the health facilities listed below shall be accompanied by an
5 annual fee as set forth below.

6 (1) The annual fee for a general acute care hospital, acute
7 psychiatric hospital, special hospital, and chemical dependency
8 recovery hospital, based on the number of licensed beds, is as
9 follows:

10		
11	1–49 beds	\$460 plus \$8 per bed
12	50–99 beds	\$850 plus \$8 per bed
13	100 or more beds	\$1,175 plus \$8 per bed
14		

15 (2) The annual fee for a skilled nursing facility, intermediate
16 care facility, and intermediate care facility/developmentally
17 disabled, based on the number of licensed beds, is as follows:

18		
19	1–59 beds	\$2,068 plus \$26 per bed
20	60–99 beds	\$2,543 plus \$26 per bed
21	100 or more beds	\$3,183 plus \$26 per bed

(3) The fees provided in this subdivision shall be adjusted, commencing July 1, 1983, as proposed in the state department's 1983–84 fiscal year Health Facility License Fee Report to the Legislature. Commencing July 1, 1984, fees provided in this subdivision shall be adjusted annually, as directed by the Legislature in the annual Budget Act.

(b) (1) By March 17 of each year, the State Department of Health Services shall make available to interested parties, upon request, information regarding the methodology and calculations used to determine the fee amounts specified in this section, the staffing and systems analysis required under subdivision (e), program costs associated with the licensing provisions of this division, and the actual numerical fee charges to be implemented on July 1 of that year. This information shall specifically identify federal funds received, but not previously budgeted for, the licensing provisions of this division that are used to offset the amount of General Fund money to be recovered through license fees. The information shall also identify the purpose of federal funds received for any additional activities under the licensing provisions of this division that are not used to offset the amount of General Fund money. *The department shall also include information about the expenditure of funds for the prior fiscal year from the Health Facilities Citation Penalties Account established pursuant to Section 1417.2.*

(2) The methodology and calculations used to determine the fee amounts shall result in fee levels in an amount sufficient to provide revenues equal to the sum of the following:

(A) The General Fund expenditures for the fiscal year beginning on July 1 of that year, as specified in the Governor's proposed budget, less license fees estimated to be collected in that fiscal year by the licensing provisions of this division, excluding licensing fees collected pursuant to this section.

(B) The amount of federal funds budgeted for the fiscal year ending June 30 of that year for the licensing provisions of the division, less federal funds received or credited, or anticipated to be received or credited, during that fiscal year for that purpose.

The methodology for calculating the fee levels shall include an adjustment that takes into consideration the actual amount of license fee revenue collected pursuant to this section for that prior fiscal year.

1 (3) If the Budget Act provides for expenditures that differ by 5
2 percent from the Governor's proposed budget, the Department of
3 Finance shall adjust the fees to reflect that difference and shall
4 instruct the State Department of Health Services to publish those
5 fees in accordance with subdivision (d).

6 (c) The annual fees determined pursuant to this section shall
7 be waived for any health facility conducted, maintained, or
8 operated by this state or any state department, authority, bureau,
9 commission, or officer, or by the Regents of the University of
10 California, or by a local hospital district, city, county, or city and
11 county.

12 (d) The department shall, within 30 calendar days of the
13 enactment of the Budget Act, publish a list of actual numerical
14 fee charges as adjusted pursuant to this section. This adjustment
15 of fees, any adjustment by the Department of Finance, and the
16 publication of the fee list shall not be subject to the rulemaking
17 requirements of Chapter 3.5 (commencing with Section 11340)
18 of Part 1 of Division 3 of Title 2 of the Government Code. If the
19 published list of fees is higher than that made available to
20 interested parties pursuant to subdivision (b), the affected health
21 facilities may choose to pay the fee in the amount presented at
22 the public hearing and to defer payment of the additional
23 increment until 60 days after publication of the list of fees
24 pursuant to this subdivision.

25 (e) Prior to the establishment of the annual fee, the department
26 shall prepare a staffing and systems analysis to ensure efficient
27 and effective utilization of fees collected, proper allocation of
28 departmental resources to licensing and certification activities,
29 survey schedules, complaint investigations, enforcement and
30 appeal activities, data collection and dissemination, surveyor
31 training, and policy development.

32 The analysis under this subdivision shall be included in the
33 information made available pursuant to subdivision (b), and shall
34 include all of the following:

35 (1) The number of surveyors and administrative support
36 personnel devoted to the licensing and certification of health care
37 facilities.

38 (2) The percentage of time devoted to licensing and
39 certification activities for the various types of health facilities.

(3) The number of facilities receiving full surveys and the frequency and number of followup visits.

(4) The number and timeliness of complaint investigations.

(5) Data on deficiencies and citations issued, and numbers of citation review conferences and arbitration hearings.

(6) Training courses provided for surveyors.

(7) Other applicable activities of the licensing and certification division.

The analysis shall also include recommendations for administrative changes to streamline and prioritize the survey process, complaint investigations, management information systems, word processing capabilities and effectiveness, consumer information system, and surveyor training.

The annual staffing and systems analysis shall be presented to the Health Care Advisory Committee and the Legislature prior to the establishment and adoption of the annual fee.

(f) The annual fee for a congregate living health facility shall initially, and until adjusted by the Legislature in a Budget Act, be based on the number of licensed beds as follows:

1-3 beds	\$ 800
4-6 beds	\$1,000
7-10 beds	\$1,200
11-15 beds	\$1,500
16 or more beds	\$1,700

Commencing July 1, 1991, fees provided in this subdivision shall be adjusted annually, as directed by the Legislature in the annual budget.

(g) The annual fee for a pediatric day health and respite care facility, as defined in Section 1760.2, shall initially, and until adjusted by the Legislature in a Budget Act, be based on the number of licensed beds as follows:

1-3 beds or clients	\$ 800
4-6 beds or clients	\$1,000
7-10 beds or clients	\$1,200
11-15 beds or clients	\$1,500
16 or more beds or clients	\$1,700 plus \$50 for each additional bed or client over 16 beds or clients

Commencing July 1, 1993, fees provided in this subdivision shall be adjusted annually, as directed by the Legislature in the annual Budget Act.

(h) The department shall, in consultation with affected provider representatives, develop a specific proposal by July 1, 1995, to do all of the following:

(1) Revise the health facility licensure fee methodologies in a manner that addresses the fee methodology and subsidy issues described in the State Auditor Report Number 93020, Issues 2 and 3.

(2) Ensure the validity and reliability of the data systems used to calculate the license fee.

(3) Address the subsidy of licensing and certification activities regarding health facilities for which the annual license fee is waived.

(4) Develop a licensing and certification special fund into which all fees collected by the state department, for health facility licensing, certification, regulation, and inspection duties, functions, and responsibilities, shall be deposited.

~~SECTION 1.~~

SEC. 2. Section 1417.2 of the Health and Safety Code is amended to read:

1417.2. (a) Notwithstanding Section 1428, moneys collected as a result of civil penalties imposed under this chapter shall be deposited into an account which is hereby established in the Special Deposit Fund under the provisions of Section 16370 of the Government Code. This account is titled the Health Facilities Citation Penalties Account and shall be used for the protection of health or property of residents of long-term health care facilities, including, but not limited to, the following:

(1) Relocation expenses incurred by the state department, in the event of a facility closure.

(2) Maintenance of facility operation pending correction of deficiencies or closure, such as temporary management or receivership, in the event that the revenues of the facility are insufficient.

(3) Reimbursing residents for personal funds lost. In the event that the loss is a result of the actions of a long-term health care facility or its employees, the revenues of the facility shall first be used.

1 (4) The costs associated with informational meetings required
2 under Section 1327.2.

3 (b) Notwithstanding Section 13340 of the Government Code,
4 all moneys in the account are hereby continuously appropriated,
5 without regard to fiscal years or plan years, to carry out the
6 purposes of this chapter.

7 (c) Notwithstanding subdivision (a), the balance in the Health
8 Facilities Citation Penalties Account shall not, at any time,
9 exceed ten million dollars (\$10,000,000).

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